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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,191	11/14/2003	John Fritsch	12-9540-6520-0000-1	9356

55851 7590 02/14/2006

THE MACLEAN FOGG COMPANY  
c/o DANA ALDEN  
1000 ALLANSON ROAD  
MUNDELEIN, IL 60060-3890

EXAMINER
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SHARP, JEFFREY ANDREW

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/714,191

Applicant(s)

FRITSCH, JOHN

Examiner

Jeffrey Sharp

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2005 and 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

[1] This action is responsive to Applicant's remarks/amendment/request for continued examination filed on 30 November 2005 with regard to the Official Office action mailed on 30 August 2005.

#### ***Status of Claims***

[2] Claims 1-20 are pending.

#### ***Response to Arguments/Remarks***

[3] Claims 1-17 were previously rejected under 35 U.S.C. 102(f), because there exists some uncertainty as to the inventorship of the present invention.

Applicant's arguments/remarks with regard to this rejection have been fully considered, but are not persuasive, because Applicant has not provided "a satisfactory showing that would lead to a reasonable conclusion that [applicant] is the...inventor" of the subject matter disclosed in the article and claimed in the application), as provided by MPEP§ 2137.

Applicant is invited to overcome this rejection by complying with any one of the following suggestions:

- 1) a) amend the specification to remove "Kent Kallsen" as the sole inventor; and,  
b) provide a signed affidavit by the attorney of record stating that during the drafting of the instant specification, "an inadvertent typographical/copying/pasting error was made, and that Kent Kallsen has no part in the inventorship of the present application".

Or,

- 2) a) amend the specification to remove "Kent Kallsen" as the sole inventor; and,

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b) provide a signed affidavit by Kent Kallsen disclaiming inventorship of the present application.

[4] Claims 1-17 were previously rejected under 35 U.S.C. 102(b) as being anticipated by Jhumra US-6,287,064.

Applicant's arguments/remarks with regard to this reference have been fully considered, but are moot in view of the following new grounds of rejection made below.

[5] Claim(s) 1-17 were previously rejected under 35 U.S.C. 102(b) as being anticipated by or under 35 U.S.C. 103(a) as being obvious over Vasseur et al. US-5,779,411.

Applicant's arguments/remarks with regard to this reference have been fully considered, but are not persuasive.

When given their broadest reasonable interpretation, the Examiner takes the position that claims 1-17 (as they currently stand amended) still read on the Vasseur et al. reference.

***New Grounds of Rejection***

***Claim Rejections - 35 USC § 102***

[6] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

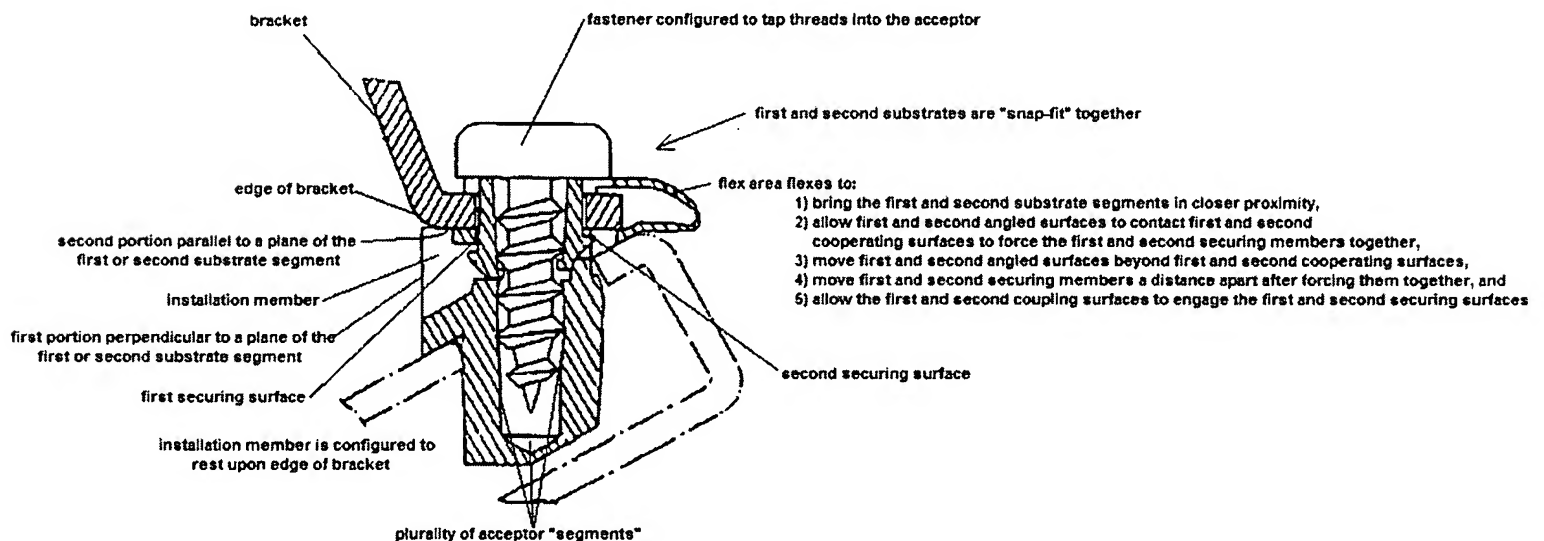
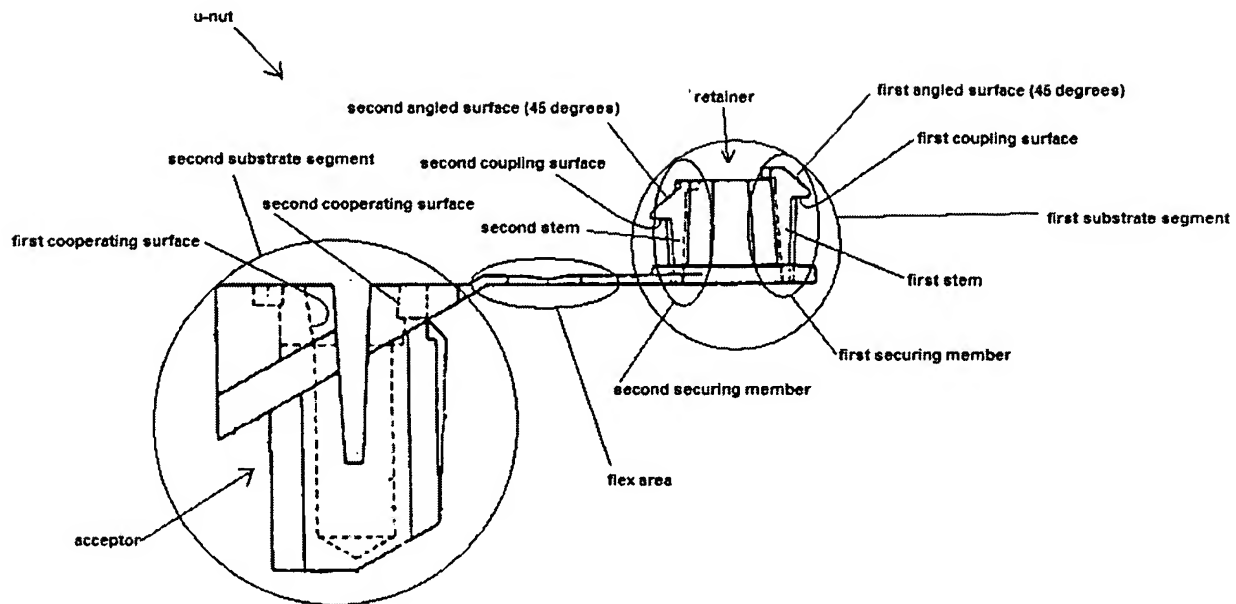
(f) he did not himself invent the subject matter sought to be patented.

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[7] Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Vasseur et al. US-5,779,411.

In short, Vasseur et al. teach a U-nut (1) having a flex area (3), first substrate segment (2), and second substrate segment (4). The first substrate segment has a retainer comprising a first securing member (22) and second securing member (24) -- each having a stem (22,24), angled 45° surface (26,27), and coupling surface (28,29). The second substrate segment (4) has an acceptor (16) having first and second cooperating surfaces (8,11) and first and second securing surfaces (16). The first and second securing members are snap fit within the acceptor (abstract lines 1-2). The U-nut may comprise a fastener (15) configured to "tap threads into the acceptor" (col. 3 lines 35-38) so as to provide a clamping force. The U-nut has what could broadly be construed as an "installation member" (7,10,13) that is "configured to" (i.e., capable of) "resting upon an edge of a bracket (40,50). Note that any portions of the acceptor could be broadly construed as "a plurality of acceptor segments".

Applicant is reminded that claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CCPA 1974).



### US-5,779,411 to Vasseur et al.

[8] Claims 1-20 are rejected under 35 U.S.C. 102(f) because the applicant did not invent the claimed subject matter. See above section titled *"Response to Arguments/Remarks"*.

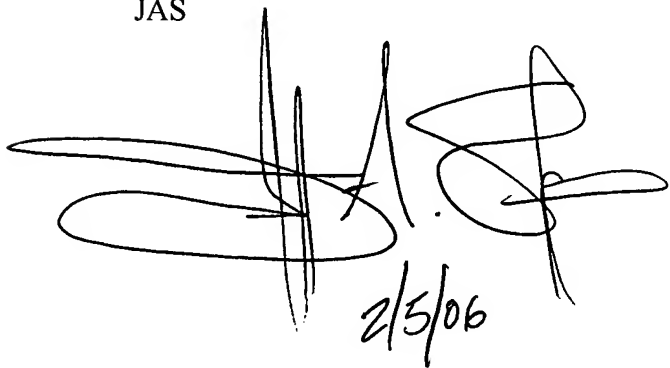
*Conclusion*

[9] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Sharp whose telephone number is (571) 272-7074. The examiner can normally be reached 7:00 am - 5:30 pm Mon-Thurs.

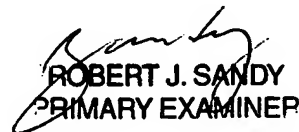
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAS



2/5/06



ROBERT J. SANDY  
PRIMARY EXAMINER